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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 UNITED STATES OF AMERICA,) CASE NO. CR00-506-TSZ
09 Plaintiff,)
10 v.) SUMMARY REPORT OF U.S.
11 KENNETH B. JOHNSON,) MAGISTRATE JUDGE AS TO
12 Defendant.) ALLEGED VIOLATIONS
OF SUPERVISED RELEASE
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14 An evidentiary hearing on supervised release revocation in this case was scheduled before
15 me on September 23, 2008. The United States was represented by AUSA Tessa M. Gorman and
16 the defendant by Carol A. Koller. The proceedings were digitally recorded.

17 Defendant had been sentenced on or about June 14, 2001 by the Honorable Thomas S.
18 Zilly on a charge of Distribution of Methamphetamine, and sentenced to six years custody, five
19 years supervised release. (Dkt. 22.)

20 The conditions of supervised release included the standard conditions plus the requirements
21 that defendant submit to mandatory drug testing, participate in a drug program, abstain from
22 alcohol, submit to search, participate in a mental health program, provide access to financial

01 information, avoid self-employment or employment by friends or relatives unless approved by his
02 probation officer, get approval for all employment from his probation officer, and not work for
03 cash.

04 On March 29, 2005, defendant's probation officer reported that defendant tested positive
05 for methamphetamine. Defendant was reprimanded, put in a structured and more frequent testing
06 program, and referred for professional assessment, counseling, and intensive outpatient treatment.
07 (Dkt. 26.) No further action was taken at the time.

08 On June 2, 2005, the conditions of supervision were modified to require defendant to
09 reside in and successfully participate in a community corrections program for up to 180 days.
10 (Dkt. 27.)

11 On September 21, 2005, defendant admitted violating the conditions of supervision by
12 committing the offenses of driving with a suspended license, speeding, and refusal to comply with
13 police; by failing to report for urinalysis testing, and by failing to reside in and successfully
14 participate in a community corrections program. (Dkt. 29.) Defendant was sentenced to 3 months
15 in custody, 56 months supervised release, and ordered to reside in a community corrections center
16 for 4 months upon release. (Dkt. 38.)

17 On October 10, 2006, defendant admitted to violating the conditions of supervised release
18 by using methamphetamine, cocaine and THC, by failing to report for urinalysis testing, and by
19 failing to participate in Moral Reconation Therapy. (Dkt. 44.) Defendant was sentenced to three
20 months in custody, with credit for time served, and supervised release of 48 months. (Dkt. 49.)

21 On April 19, 2007, defendant admitted to violating the conditions of supervised release
22 by using alcohol, failing to successfully complete the placement at the residential reentry program

01 by leaving the facility without permission, and failing to report for urinalysis testing. (Dkt. 55.)
02 Defendant was sentenced to 90 days in custody, 42 months supervised release. (Dkt. 59.)

03 In an application dated September 5, 2008 (Dkt. 61), U.S. Probation Officer Jennifer J.
04 Tien alleged the following violation of the conditions of supervised release:

05 1. Committing the offense of possession of narcotics on or before September 5, 2008,
06 in violation of the general condition that the defendant not commit any federal, state or local
07 crimes.

08 At an evidentiary hearing on September 23, 2008, the government offered a police report
09 detailing the investigation that led to the violation report. The report was accepted into evidence
10 without objection, and the government's motion to seal the report was granted. (Dkt. 68.) The
11 parties stipulated that the matter could be decided based on the police report. (Dkt. 69.) The Court
12 finds that it has been established, by a preponderance of the evidence, that defendant committed
13 the offense of possession of narcotics on or before September 5, 2008.

14 I therefore recommend the Court find defendant violated his supervised release as alleged,
15 and that the Court conduct a hearing limited to the issue of disposition. The next hearing will be
16 set before Judge Zilly.

17 Pending a final determination by the Court, defendant has been detained.

18 DATED this 23rd day of September, 2008.

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20 
21 Mary Alice Theiler
22 United States Magistrate Judge

01 cc: District Judge: Honorable Thomas S. Zilly
02 AUSA: Tessa M. Gorman
03 Defendant's attorney: Carol A. Koller
04 Probation officer: Jennifer J. Tien
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